113, 171, 681, 604 Kazak RQ2

[For a Kalmyk parallel with Kazak legal private seizure of property, and the inheritance rights of maternal nephews, see 10: Krader, AH1 Mongolia, category 116, pp. 274-279.]

2: Hudson E-4, 5 (1936) 1938 RQ2 Kazak RQ2

again necessary to distinguish between theory and practice. In theory the uru was supposed to avenge any injury done to one of its members for which compensation was not forthcoming, and on the other hand was collectively responsible for the payment of damages for any injury which one of its members might commit against a member of another group. In practice, however, according to my information, class affiliations were in general of greater importance than blood relationship. Whereas, as mentioned above, disputes between powerful individuals of different groups would commonly lead to war involving all their kinsmen and followers,[1] the humbler members of the uru could not count with any certainty upon receiving support from their wealthy patrons. If, of course, the leaders of the uru were looking for a pretext to begin hostilities they might seize eagerly upon an injury done to any of their followers which would serve to justify their action. On the other hand if it suited their policy to remain on good terms with the opposing group the victim would obtain scant sympathy. He might perhaps resort to direct action to obtain redress but in the event of coming to grief would be disavowed by his own uru. In opposite circumstances an influential individual responsible for an injury might requisition the amount of the damages from his henchmen, if he decided to pay them at all, while the poor man could only hope that his patron would feel generously inclined. The claims of kinship were weighted in favor of the upper class and the right of resorting to arms tended to become their prerogative.

LAW

In the previous section[2] I have discussed baranta as the ultimate means of settling disputes by recourse to arms. Normally, however, it would be considered only as a last resort. For the settlement of nearly all possible grievances of one individual against another the Kazak had elaborate provision in their system of customary law.[21]

Under this legal code all actions were considered as claims for damages by one party from another. No action could be taken against an individual in the interests of society as a whole but only on the charge of specific injury to person or property brought by the victim.[22]

Such charges did not distinguish between civil and criminal offenses. All injuries from murder to the misuse of borrowed property might be compensated for according to an elaborate tariff of fines, damages and reparations. It was the office of the bij, or judge, to fix the responsibility for damage done and to determine the amount of compensation to be paid.

This was accomplished through a process of trial involving the examination of witnesses for both sides under oath. It is difficult at the present time to estimate accurately the nature of trial procedure in the days prior to the Russian occupation. Most accounts of

[21] Adat or zaŋ; the former is the borrowed Arabic term, the latter Turkic. See Grodekov, *Kirgizy i Karakirgizy*, 20.

[22] Dingelstedt, *Le Droit coutumier*, 331.

1 [See cat. 116, p. 66 -- Analyst]

2 [See cat. 116, pp. 66-67 -- Analyst]

562 their guardian. Women are permitted to enter a complaint in court of
685 their rape. (1) In such a case the woman has the right to defend her

[584]

1. When a woman declares that she has been raped, and this is based only on one such declaration, the people's court sentences the person accused by the woman to pay a material remuneration to the plaintiff.

interests personally before the court. The testimony of women has force only in affairs affecting them personally. In affairs of men, no interference of women is permitted. In the Kazalinsk uyezd, women are not even called to court in matters concerning men and kinsmen.

Women, for example, the wife who is the defendant, are called up for a brief examination, but if she denies her guilt, it is limited to that.

If the wife is in dispute with her husband, no credit is given to her testimony at all (the biis' books of the Perovsk uyezd).

[593] /95/ Wives use the seal of their husbands but not of their fathers, since, according to the explanation of bii Sagyndykov, a Kazakh woman who was bought for a kalym is without rights (ikhtiyri yok), like a slave (churi), like livestock (mal) or land property (mulyk yer).

A woman is not permitted to take an oath. (1) An oath is

1. According to Torgai, the women are allowed to take an oath by the Shariat. He transmits from the words of the elders that in an extreme case they dress the Kazakh woman in men's clothing. Perhaps this evidence is only an attempt to bring the customary law closer to the Shariat.

possible from the woman's side, i. e., from her commune, but this too is avoided. According to the Kirgiz Kurpetai Dauletkulov, it is impossible for a woman to take an oath, but her husband and his relatives can take it. Cases in which decisions were made on the basis of a woman's oath in the absence of male witnesses, are very rare. Bii Abdrakhman does not recall a case of murder, for example, which was committed by a woman, without male witnesses.

562 For a murder committed by a woman, wergeld is not changed.
681 For the murder of a woman, half a wergeld is sought. But for injury of a woman no less is sought than for injury of a man, and

often more. For the mutilation of a woman, half as much wergeld is paid as for the same mutilation suffered by a man. 562 [681]

In contradiction to the report of I. I. Ibragimov in "Zamtki o Kirgizskom Sude" /Notes on Kazakh Justice/, St. Petersburg, 1878), concerning the judgment of affairs of widows of prominent Kazakhs, Torgai holds that the widows of such persons are not turned to for judgment, and that even if they asked the woman, she could not decide the affair. She can only assist in the pacification between husband and wife, saying to each: Stop, do not scold, this is shameful (koy, yaman syuileme, aib bulady). (2) According to the report

2. According to Makovetskii, I, p. 31, a village is sometimes ruled by a widow temporarily, until her sons reach majority. On the matriarchy as the oldest structure preceding the patriarchy, cf. Pervobytnoe Pravo /Primitive Law/ by Maksim Kovalevskii, Pt. I, Chapter III: The maternal clan.

of bii Sultan Kanaev, although a woman cannot be a bii, in some villages one can find women who do judge the affairs of women (khatyndy biyley tugun).

/96/ Women do not take an active part in war. If they have enough spirit (gayrati kelse), they defend their village against attacks (Abdrakhman). In one folk epic the wife, named Khanekey, accompanies her husband Zarlyk on an expedition to free the husband's sister.

The woman nurses the wounded relatives. The care of those who are not relatives is left to her good nature. [612]

E. A. Aleksandrov reports that custom in general forbids women to slaughter animals, but in extremity when the men and grown boys are absent from the village a woman can slaughter a sheep for food, carrying out all the necessary religious ceremonials. [231]

Children out of wedlock can fail to be adopted. Then they go to to seek their father. 848

The children of a girl who is not betrothed to their father also go to seek their father. A bridegroom does not consent to take a bride with strange children. He is more apt to make a raid (barymta) to kill the father of these children (Perovsk uyezd). [628]

The people do not permit unlawful cohabitation, but it does exist, and in such cases the men call the women living with them servants, as though they were working for wages. The women in 588

681 Reimbursement of damages is required for every kind of infliction of loss, damage to objects, etc., if it took place as a result of carelessness. For wounds and similar bodily injuries, the medical treatment and the support of the injured person is at the expense of the guilty person. If evil intent is observed in this, a fine is imposed to the value of the damages, in addition to the damages.

We append examples:

682 1) Clumsy medical treatment. A doctor (taub) who heals clumsily is suspected of evil intention, but he is not called to account. Only the expenses for the funeral (as su) of a patient who died can be referred to his account. He answers for it in the future life (akhiratda zamin).

2) Being bitten by vicious animals. If the owner of an animal did not know his qualities, he does not pay the expenses for the healing of the injured person, and for the damage suffered (bite, tisteb algan, dislocation, mirtildy, death), for "the animal does not know what he is doing." However the animal itself may be adjudged to the sufferer. But if the owner knew that his animal was dangerous to human beings, (adam khur) he should have either kept it tied up or slaughtered it, or sold it at a distant bazaar. For not having taken these precautionary measures, nor having kept an eye on the animal known to be vicious, he pays for the damage caused by it /157/ (Torgai and others), or a full wergeld to the report of Baymet Sagyndykov.

If a mounting camel or stallion bites or kills someone, the animal itself is given to the person who has suffered. Wergeld is not exacted.

If a camel walking about untethered bites someone, he is surrendered in place of wergeld. But if a person rides into a village on a camel and it bites someone, the rider pays a full wergeld. (1)

1. The owners are not held responsible if the animals bite each other. Only children arrange a fight between animals (talasteru) and they are not held responsible for damage (Perovsk uyezd).

685 3) Injury to strange animals, cutting out the tongue, disfiguring their appearance, is punishable by fine, and if the owner of the animal consents, by the buying of the animal from the owner for its original price. If the injury resulted in the death of the animal, its value is paid (Perovsk uyezd).

685 the stealing of sheep is more severely prosecuted (sheep are watched less carefully than other livestock), namely, a fine of one toguz is imposed for the theft of one or several sheep, in addition to the return of the stolen animals. It was stated in the Geographic Society's outline for the collection of folk juridical customs (p. 31) that a larger reimbursement was demanded among the Kazakhs for the theft of sheep because a high value was placed on them for their numerous offspring. It will be seen below in the chapter on punishments that this custom does not exist in the Turkestan region.

is no special punishment for damage to a wall, a lock, etc., in the process of stealing. Reimbursement for such damage is included in the fine imposed.

The theft of a fettered animal is punished in the same way as the theft of livestock grazing freely.

• 681 There is no special exaction for the hiding of traces of a crime. An exception to this is hiding the body in a murder (cf. wergeld).

[683] In Makovetskii's book, Pt. I, p. 79, it is said: "Violence during /170/ theft of property, for example, the infliction of wounds, is regarded as a separate crime and there is special punishment for the theft of the goods and the infliction of wounds." The biis Sultan Kanaev and Khalmahammed find that violence and theft are judged without division. A fine is exacted as for an ordinary theft, and only expenses for the healing of the wounds are added. If there were blows without wounds, then nothing is added to the fine for the theft. The proverb: "You cannot skin two hides from one sheep" (bir koydan eki teri soymaydy) is relevant here, i.e., two punishments are not imposed on one criminal. Only an inexperienced bii can impose two fines (bil'mes bii klady eki ayb).

681 683 A criminal who has already been convicted for one and the same crime is punished more strictly. (1) For the second theft they

1. This is the opinion of many, including the Kirgiz Daniyar, and agrees with Zagriazhskii and Samokvasov, but conflicts with the opinion of the Makovetskii collection, Pt. I, p. 65.

require the confiscation of all the property of the thief, with his release on guarantee, or depriving him of liberty. For a third theft he is banished, with the declaration that they refuse to pay and receive Wergeld and other exactions for a thief

693 arrangements.

When a suit or part of it is abandoned without consequence because of distance or some other reason, a biilyk is not collected.

A biilyk is not taken when a session is abandoned by force of an earlier decision. Also when an earlier decision is overruled, the biilyk received for it is returned.

When the bii decrees that the period of time of an oath is to be extended because of the illness of the swearer, he receives biilyk for this labor.

According to bii Sultan Kanaev, of the Chimkent uyezd, a biilyk is not taken even in such cases where the defendant clears himself by oath. He pays only about 20 or 40 kopeks then, up to one ruble, for receiving the document of acquittal from the bii with the affixing of the seal. This collection is called mukhrana ("for the seal").

681 /198/ Losses and court costs (chygyn) are included in the fine itself. When the fine has already been obtained, the biis can refuse a suit for the recovery of court costs, with the exception of cases concerning wergeld, for in such cases many people are summoned into court, and the cost of the summoning adds up to a considerable sum which cannot be covered by a part of the wergeld. (1)

1. According to Torgai, the expenses for a suit concerning wergeld can be separated from the wergeld. All pay equally for the wergeld /po khunu/, but for the expenses the guilty party pays first of all, and then the clan, and the latter pays only when the former already has no property left.

When a suit ends without a fine, the winner of the case seeks reimbursement for the losses and court expenses which he has also been required to pay in one session of the court or another.

691 The period of time for the payment of the fine is recorded in the document of the judgment, but this measure appears in part to be inoperative. The customary law does not assume a period of time.

696 In the case of the defendant's insolvency or his absence, the exaction is extended to his group of ten (unbasilas), and when their 697 means have been exhausted, to the group of fifty, then to the village, which is noted in the document. (2) Only that which was necessary for

2. In ancient times when the payer was insolvent, the group of ten, or fifty, etc., in order, did not pay for him,

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can be subject to the examination of a justice of the peace of a regional court only at the desire of both sides, which is announced to the court in writing or orally, and entered in the document.

Cases begun in the people's court cannot be taken out of its jurisdiction even though the suit was reconveyed to a person who was not under the jurisdiction of the given court.

A case which is subject to the jurisdiction of a people's court, of which the essence is the determination even of one instance of this court, cannot be transferred to a justice of the peace or to a regional court, except in cases when the people's court makes a sentence to a punishment which is outside the limit of its authorities.

Sentences and judgments of the people's court which are decreed in excess of power, or in cases which are not under their jurisdiction, are not carried into execution, and the uyezd chief represents the procurator for them. The latter enters a protest in the regional court, which, in case the sentence is overruled, returns the case with the necessary indications to the people's court for the establishment of a new judgment, or if the case is not under the jurisdiction of the people's court, it gives it legal direction.

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If the sides are not pacified, in cases of crimes and misdemeanors, the people's court, independent of the determination of payments for losses and damage, imposes on the guilty parties the following punishments: a) fines in money no higher than 300 rubles, and b) confinement under guard for no more than one year and six months.

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If as a consequence of the incorrigibly bad and pernicious behavior of the person under sentence, the people's court considers the punishment which it has a right to impose inadequate, then having determined it within the limits of its authority, it can intercede through the regional government to send the person under sentence from his place of habitation, after his punishment is finished.

681 •

A monetary fine designated by a people's court as a personal punishment is, in the case of insolvency of the person under sentence, substituted for by arrest of no more than three months, or by his being given over, by /204/ command of the uyezd chief to public labor for this same period of time.

692

People's courts are desginated, by election of the population, for three years.

The number of people's courts and the limits of their sectors are determined by the regional authorities before the elections, so that the number of courts among the nomads in the volost may be no less than four and no more than the number of village communities

present it all to be divided. After this they slaughter a white horse 675
(bozat), or a grey one with a star on the forehead (kok kaska), or a white ram with a yellow head (ak sarybas), saying: "May the one who betrays this pact be killed like this animal" (ar kim sol sherttep taysa, sol malday soyylsyn). Here shert means agreement, promise, oath (according to Torgai and Makovetskii, I, p. 49).

Among the Kirgiz, in assertions by oath (kargych) they propose the licking of a knife and saying: May God, bread or the book (Koran) strike me, or else saying: May I be mayneke. The last expression, the meaning of which was unknown to the informant, bii Daniyar, is used only by women and children.

/225/ CHAPTER XII.

Fines: atton, muynyna kosak kutine terkeu and toguz. - Wergeld. - Corporal punishment. - Shaming. - Banishment.

Fines (ayb) are exacted in suits for theft, offense, fighting, 681
disturbing the peace and the general morality. (1)

1. The Perovsk uyezd chief, Mikebai and others, say concerning the fines that they are increasing the number of fraudulent suits, opened for reasons of avarice, and inciting the biis to judge falsely, acting in secret with the plaintiff. They are also bankrupting individual owners, and whole communities, from whom the fine is exacted when the defendant has not had enough property.

No fine is imposed in civil suits over debts and other obligations. The fine goes to the use of the plaintiff, and therefore he can consent to a reduction. Sometimes the plaintiff asks only for the return of the stolen goods, waiving the obtainment of the fine and the expenses (the biis' books of the Auliye-Ata uyezd).

If after paying the fine, the defendant later clears himself of the accusation brought against him and presents the actual perpetrator in court, the fine is returned to him.

The best known fines of the customary law are the atton, the muynyna kosak kutine terkeu and the nine /toguz/. (2)

2. In the Kazalinsk uyezd the fines are usually of the following type: a) a chapan (long coat), which is customary for a slight

681 misdemeanor and goes to the use of the plaintiff; b) the atton (a horse and a long coat), which goes to the use of the plaintiff; a biilyk is not required; c) br-toguz (three horses, three camels, three cows), which is divided in such a way that one-third is forgiven or else goes to the kinsmen of the guilty party /sic/, one-third goes to the plaintiff, and one-third is taken as the biilyk; d) uch-toguz (8 horses and 1 camel; 8 cows and 1 horse; 8 sheep and 1 cow) which is divided in the same way as the br-toguz.

The biis can impose all three types of punishment for the stealing of livestock, at their own discretion, depending on the circumstances of the theft and how many times it has been committed. Now /226/ it has come into custom so much to impose muynyna kosak kutine terkeu for livestock stealing, that when this "customary law" is broken, complaints are filed. The atton is kept /ostavlen/ for small offenses, while the nine is for crimes against morality and for certain cases of fighting and mutilation.

On the basis of the proposed code for the administration of the Turkestan region, the biis can now, independently of the determination of payments for damages and losses, impose monetary fines on the guilty parties for no more than 300 rubles and confinement under guard for not more than 1 1/2 years.

When a stolen animal was been taken away from the thief by its owner or by his acquaintance, the thief was released after he had given a horse (at) and a long coat (tun) or a fur coat (ton), or other things equalling them in value, for example, a horse and a gun, and with this the case was ended. This fine went directly to the person who took away the animal and was the same sort of payment for him as the syuyunchi is now. As a result the atton is counted as a fine, but it is considered the lightest of the fines, if one does not count the astarisiz chapan, a long coat without lining, which practically signifies a peaceful settlement. The atton which is sentenced in court is sometimes received in the end in the form of one cow or even only one sheep.

The atton is exacted primarily for fighting without mutilation and for the theft of an unvalued object. If one object is stolen by several persons they divide the payment of the atton equally between them. If several objects are stolen by several persons, the bii can determine an atton for each object (Perovsk uyezd).

An attay, i. e., a horse and a colt is the equivalent in value of an atton (Sultan Daulet Bushaev).

An attuya (a horse and a camel) is sentenced, according to Torgai, for the rape of a bride (kalyndyk) after the kalym has been paid, before the wedding ceremony. This punishment can also consist of only one camel or only one horse.

/227/ The Kirgiz have the atton but not the attay or the attyuya, which are in general little known punishments.

The fine called muynyna kosak kutine terkeu is imposed only for the theft of livestock. For this, when the stolen livestock are being returned an animal must be tied to the "neck" of each one being returned, for an "addition", and another one must be tied to the "back" for "support." (1)

1. According to Aleksandrov, the terkeu is court expenses, sentenced by the judges. In the Kazalinsk uyezd these no longer exist. But in the steppe of the Orenburg dominion the biis receive a terkeu of 2 to 4 rubles above 10 % of the biilyk. In addition to this, the scribe there receives a kalamkhaky of 2 rubles.

The fine in the Perovsk uyezd for stolen livestock remains the same, even if the animal is valuable or pregnant, namely, the value which is given for such an animal of average (orta) value. Thus for example, the fine for a returned horse consists of 2 animals of 20 rubles apiece= 40 rubles. For a returned cow the fine is the same. For a returned camel, the fine is 2 animals at 40 rubles apiece=80 rubles. For a sheep, the fine consists of 2 animals at 2 rubles apiece=4 rubles.

In the Kurama and Auliye-Ata uyezds, according to Torgai, the value of the stolen animal is determined (kisedi) each time. But if it is impossible to find it exactly, they judge by the bazaar price (bazar narkhi) of the average worth of the livestock, and add not two animals but only one of the same quality. This fine is explained by the fact that animals of the fine can be younger, for example, according to Torgai:

muynyna kosak=1 bisti (5 years old)

kutine terkeu = 1 kunan (3 years old).

According to Abdrakhman, a five year old camel was formerly the equivalent of 40 rubles, and each fined camel also 40 rubles, so that the total fine for the theft of a camel equalled 120 rubles. But now such a camel costs 30 to 40 rubles, depending on the bazaar, and

681 in the fine is:

muynyna kosak= kunan atan (3 year old male).

kutine terkeu= taylak (a 2 year old).

/228/ The fines entered in Zagriazhskii, in articles 113-117, which are four times greater than the value of the stolen livestock, are explained by the fact that at various times the uyezd chiefs have proposed to the biis at meetings to impose high fines, in order to eradicate the passion of the Kazakhs for stealing. In the Auliye-Ata uyezd, for example, for 1 horse there was a fine of 8 horses, of which 7 went to the plaintiff and 1 for the biilyk. In the Chimkent uyezd, for one camel the fine was 40 tillias (including all expenses). In the Kurama uyezd, the fine for one sheep was 5 tillias (including the returned sheep, the fine, the expenses, the syuyunchi and bribes). (Abdrakhman).

According to Shanchi Chinybekov of the Auliye-Ata uyezd, nine heads of livestock must be paid for one stolen animal. According to Baymet Sagyndykov, the usual fine of muynyna kosak kutine terkeu is imposed in the Chimkent uyezd. According to Absalyamov of the same uyezd, for a stolen camel they return 2 mares and a two year old foal (tay), for a horse - 7 sheep, for a cow and a bull - 5 sheep for each, for a three year old horse - 4 sheep, for a good pacer - 25 sheep, for a racing horse - 75 sheep.

Absalyamov says further that for any kind of theft, the guilty party pays the victim the same thing that was stolen but seven times more, so that the stolen article should constitute the eighth part.

In the northern uyezds, where livestock stealing is still very widespread, the fines are particularly high.

According to Tilen Kyul'baev, in the Kurama uyezd the fines for theft are:

Stolen	To the plaintiff	Biilyk and fine	Total
1 cow	7 tillias	3 tillias	40 rubles
1 horse	40 rubles	20 rubles	60 rubles
1 camel	15 tillias	5 tillias	80 rubles
1 sheep	8 rubles	4 rubles	12 rubles
1 goat	2 1/2 rubles	1 1/2 rubles	4 rubles

/ Inserted page. Picture. Caption: The white bone Sultan Daulet Bushaev of the Perovsk uyezd. /7

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/229/ The Kirgiz Kurpetai Dauletkulov says that for the theft of a five year old male camel they take:

muynyna kosak=kunan atan (3 years old).

kutine terkeu=tay tyuya (2 years old).

When the animal itself (malnyng basy, kuzi) has already been returned without a trial, in the Perovsk uyezd they demand an additonal fine by the court (biis' books). According to Abdrakhman, such a return usually means that there is already agreement that the additional fine can be only very insignificant.

The name of toguz as a punishment is known to all nomadic Kazakhs (kushpe kazak) from Orenburg to Bukhara and from Khiva to Troitsk (Torgai).

Each toguz, as the word itself indicates, consists of nine animals (kara). The best among these gives its name to the toguz. For example the tyuya bastagan (or bastatkan) toguz, i. e., "nine heads, with a camel at their head", consists of a camel, a stallion, a mare, a colt, a cow, a calf, etc. to a sheep. According to the honorable Kirgiz Mullah Asan, the same toguz consists of 1 camel, 4 horses and 4 cows, while for a small offense, it consists of 9 items, including animals and things, from a camel to a long coat. He says in general that when a toguz is exacted the court defines its content exactly. According to Khalmakammed of the Chimkent uyezd, the tyuya bastagan toguz can consist of 1 camel, 1 horse and 7 long coats.

The at bastagan toguz consists of a horse, a mare, colts two, three and four years old, a cow, a calf, a ewe and a lamb.

The siir bastagan toguz consists of a cow, steers two, three and four years old, a sheep, then lambs of various ages and finally a kid.

In place of siir bastagan toguz there can be domalak toguz, ie., rounded toguz, also called tokal toguz, i. e., toguz without horns, consisting of a rug and 8 long coats of various values, of which the cheapest must be worth a ruble. There can also be things, muyum (Sultan Daulet Bushaev).

/230/ In the Auliye-Ata uyezd monetary sums take the place of toguz. The value of three toguz together is determined as 175-200 rubles. In general, under the Russian dominion, the toguz is sentenced

7/ [Not reproduced -- A]

[681] very rarely, and when it is, it is the less expensive type. Finally, the simple toguz are more frequent than the double or triple varieties. They are being replaced now by other fines, even by the atton.

Among the Kirgiz the toguz was formerly sentenced as a fine for mutilation, etc., but now they fine only in money.

It is asserted (Sultan Daulet Bushaev) that it was possible earlier to impose a sentence for theft of up to three toguz, namely: for the theft of one sheep, koy bastagan toguz, buydak bastagan toguz and ulak bastigan toguz; for the theft of one cow, siir bastagan toguz, kunan ukuz bastagan toguz and tay ukuz bastagan toguz; for the theft of one horse, at bastagan toguz, bie bastagan toguz, and siir bastagan toguz; for the theft of one camel, tyuya bastagan toguz, at bastagan toguz and siir bastagan toguz.

[684] According to Torgai, the chief cases in which one can impose a fine of three toguz at once are the following: 1) the abduction of a girl, with or without violation. She is returned with three toguz, if her father is influential, otherwise with a smaller number of toguz. If she has a bridegroom he demands the same exaction from her father for her unchastity. However it is now very difficult to obtain even one toguz for the unchastity of a bride because the father invariably declares that the pregnancy of his daughter was caused by the groom himself. In the Kurama uyezd they have completely ceased to file such suits and they take the bride even with a child. 2) If they do not wish to impose wergeld for the loss of an eye, an arm, etc., since all wergelds, including partial ones for mutilation are apportioned among the khundas, just as they are divided among the khundas themselves, even if the guilty person is solvent, in this case they sentence to a fine of three toguz, for the toguz are apportioned in the community only after the guilty person is insolvent and are not apportioned from the community of the plaintiff.

The above mentioned fines in livestock can be translated /231/ into money. In the biis' books of the Perovsk uyezd, in order to be exact they often record with the fines decreed in livestock, their value in money, especially with the large fines. In the south they usually fine directly in money. This custom exists as well in the Kazalinsk uyezd, as is evident from the order for the revision of the Kazalinsk uyezd of 1886 (1), in which it is said that in the extra-

(1) Of May 28, 1886, No. 88.

ordinary sessions of this uyezd, the calculation of the wergelds are to be made in rubles, and not in livestock.

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In the Chimkent uyezd, according to Absalyamov, all the property (dzhasau) and money in litigations are translated into livestock (malga chaglab).

This opinion contradicts the following indications of biis from the same uyezd:

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For theft it is customary to pay, including the value of the stolen article, a fine and all the expenses:

Theft	According to bii Sultan Kanaev	According to bii Kucherbai		
		Formerly asked		Now accepted
1 camel	40 tillias	Value of camel	10 tillias	20 tillias
		Muynyna kosak	10 tillias	
		Kutine terkeu	10 tillias	
		Pay of rider	1 tillia	
		Biilyk	4 tillias	
		Syuyunchi	4 tillias	
		To scribe (mirzakhaky)	1/2 tillia	
		Traveling expenses, food etc.	1/2 tillia	
			40 tillias	
/232/ 1 horse	20 tillias	20 tillias		10 tillias
1 cow	15 tillias	20 tillias		10 tillias
1 sheep, 3 years old	5 tillias	5 tillias		5 tillias
1 donkey	9 tillias (the bii himself had occasion to impose this fine for a donkey.			5 rubles
1 ruble	10 rubles. (This was aimed at stopping robbery. However he could not remember a case of theft of money).			

681 Bii Sultan Kanaev explains the lowering of the fines in the second column of the information from Kucherbai as follows: This
685 happens only when the biis ask the plaintiff to forgive part of the suit because of poverty. They say "Where can a thief get such a sum? Would he have stolen if he had had means?". Bii Khalmakammed added that biis have recourse to this device who receive something from the thief.

It is not obligatory to impose a fine in money in the amount of muynyna kosak kutine terkeu for the theft of money (Perovsk uyezd).

According to Torgai, one view has it that for a theft of money a fine is imposed in the amount of muynyna kosak kutine terkeu. Another opinion is that a smaller fine is determined, namely: 1) if the stolen money is all found (tugul tabylsa), then in justice (insaf kylsa) there is no other fine beyond the biilyk and syuyunchi; 2) if the money is not all found and the defendant wants to give it all but cannot immediately, /233/ then the fine, syuyunchi and all the expenses are added together into one sum, equal to half of the money which was not found. For example, if of 20 tillias, 10 tillias are given up at once and 10 tillias remain, there is a sentence to pay these 10 tillias plus 5 tillias, totalling 15 tillias.

According to Kyul'baev, for the theft of 50 tillfas, if the defendant does not deny it, they ask a fine of 50 tillias plus 10 tillias (under the name of sandyk khakysy, "for the coffer", i.e., for the plaintiff), plus 5 tillias (to the bii).

In the Auliye-Ata uyezd, for the stealing of things but not live-stock a monetary fine is imposed which is much less than the amount of muynyna kosak kutine terkeu.

According to Torgai, for the theft of a long coat and other things to the sum of 10 tengas /silver coin/, the fine is established at 15 tengas if the total stolen amounts to 15 tengas, the fine is 20; if the total stolen amounts to 100 tengas the fine is 120 tengas, etc. The larger the amount of the suit, the smaller the percent added to the fine.

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681 For murder, a redemption of "khun" /wergeld/ is customary, and in case it is not paid, the death of the murderer him-
682 self is asked, or that of another man from his clan. (1)

1. An interesting ritual of symbolic execution of a ram at the time the wergeld is received can be found

in Makovetskii, Pt. I, p. 71. This ritual does not exist in the Turkestan region, as is evident from the words of Sultan Kanaev: this is anarchy (nizamsiz), the act of people who are not subject to any chief (ishbir khakimga karamagan adamnyng esi).

Wergeld is paid and received not by a person but by a clan. If the murdered person and the murderer are from one clan, then it is paid and received by the lineage, if they are both from the same lineage, by the sublineage, etc. For example, if one is of the Bisata lineage, the other of the Yamanbay lineage (both these lineages constitute the Kutenchi clan, of the main clan of Kungrat), in the Chimkent uyezd all five volosts of the Bisata pay, and all five volosts of the Yamanbays receive the wergeld. The wergeld received, taking out 100 to 300 rubles for funeral and memorial services, is distributed among the volosts, then among the villages, etc. The close and distant relatives of the murdered person and the murderer, rich and poor, must pay and receive equal shares. Even though the clan of the murderer be /234/ far away or scattered over a large area, nevertheless demands are sent for the payment of their shares of the wergeld, authenticated by the affixing of many seals. Now the distribution of the wergeld received is not above abuse from influential persons.

Wergeld is not exacted when there are no kinsmen to act as plaintiffs.

According to Torgai, the rule "blood for blood" (khunga khun, kanga kan) was observed earlier in several places. Even now in the Kazalinsk uyezd the clan of the murdered person tries to commit murder in order to take blood for blood, but they are not permitted to do this, for people say: "It happened by the will of God." In general the custom of taking blood for blood no longer exists.

Now, if the community on which the wergeld is imposed is insolvent because of its small number of people, none of them is killed and the community is simply considered to be in debt. (1)

1. It is said that in Bukhara there is a custom of collecting alms for the payment of wergeld.

Those who draw together to pay the wergeld and also to receive it are called comrades in the wergeld (khundas). It is practically impossible to refuse to take part in the apportioning (shesken) of the payment of a wergeld. If one did, they would not give him a share of wergelds received and would not participate in the payment of wergeld for his own commission of murder.

681 If a small community, living in the midst of a community of many members, but not related to it, takes part by some chance in
682 the payment of wergeld for a murder committed by the large group, then both communities are considered khundas, and this numerous clan
672 must pay for a murder committed by the small community. If it refuses, the small group reminds it that they once were khundas. If the large group is still not inclined to take part in the payment, the community which is under fine is left to take a copy of the judgment and to send it along with a demand for participation /235/ in paying the wergeld to the place where the rest of their clan lives, to their motherland, so to speak. At first these are unwilling to pay, and scold them: "Why did you go away from us", but finally they do pay nevertheless.

In Kurama wergeld is not exacted from the clan but from the family: from the father, the brother and the uncle (akesi ukesi, amekesi kuyadi). Formerly there was killing for insolvency.

In the Auliye-Ata uyezd the wergeld is imposed in this way: after deliberation between the kinsmen of the payer of the wergeld, a part is assigned to the defendant himself, while the rest is paid by his kinsmen within the degree of kinship to which it is forbidden to marry. They divide this part among them.

681 The amount of wergeld for a man is the same, whether he be a
682 sultan, a hodja, a guest, a thief, a child, an adult,(1) etc., in accordance with the proverb: "The wicked and the good are equal once after death (i.e., their wergeld is the same), and another time during life" (i.e., abuse can affect everyone equally) (yaman ksi yakhsy ksige ulgende br teng keledi, tirisinde br teng keledi).

1. In the article by Gotroviiskii, "Okonchanie del polumirom po kirgizskomu obychnomu pravu" /The ending of cases by polumir /cf. below/ according to Kazakh customary law/, (Iuridicheskii Vestnik, May, 1885, p. 194), it is stated that if the widow of a murdered man remains without means with a female child, and if the murdered man had no brother whom she could marry, then she must receive 50 horses, without any concessions. But if she is young and has a male child and consequently can count on marrying one of her husband's kinsmen, then when the case is decided by polumir (karyndas kyb)i.e., with the full confession of the murderer that he has committed the crime, the payment to the widow must be limited to 25 horses.

If one is to believe the claims of the sultans, for the murder of a sultan or a hereditary bii the wergeld paid is one and a half the usual amount, namely 6 yakhsy are added to the 6 yakhsy. (Communication of Sultan Daulet Bushaev).

For the murder of a woman, including one's own wife, half a wergeld is paid.

For a murder committed by a woman, full wergeld is paid.

For a murder committed in a drunken state, the wergeld is unchanged.

For unpremeditated murder wergeld is not customary, but only /236/ a gift of clothing and covering the expenses for burial and memorial services (asatau).

If the murder occurred in self-defense, this must be proven before the plaintiffs in order to be freed from the payment of wergeld. However it is still a disputable question whether wergeld should be paid in such cases, i. e., when the murdered man was a thief, not allowing himself to be captured, or some other criminal defending himself by arms against the rider who has been sent to arrest him, or a bandit who is the first to start fighting. The plaintiffs demand the payment of the full wergeld, offering on their part to pay the fine for the attack, fighting, stealing and in general the offense which is acknowledged for the murdered man. They support themselves by saying the defendant is entering a false accusation against the murdered man, in order to avoid paying the wergeld. According to Mikebai, wergeld must be paid for the murder of a thief, even if he started the fight, if he was not the first to use a weapon. Wergeld, however, does not need to be paid for the murder of a thief, if he was the first to begin armed resistance.

E. A. Aleksandrov reports from the Kazalinsk uyezd that self defense in case of the attack of plunderers and outlaws is permitted only in a measure which is not criminal. But if the defender strikes the attacker, even though unintentionally, and it results in death or injury to a part of the body, the person guilty of this pays wergeld, while at the same time the plunderers bear responsibility for the damage by them.

If the murdered person is an orphan living with his step-father, his clan demands nevertheless that wergeld be paid for his murder. In the absence of the clan, the step-father can demand wergeld in the name of the younger brother of the victim, but must put the wergeld received to one side, to be given to the clan of the victim on their first demand (Kurama uyezd). According to Khalmakammed

681 of the Chimkent uyezd, the mother may receive part of the wergeld at
682 the will of the kinsmen. She can pay part of the wergeld, if she wishes, for a murder committed by this orphan.

672 If a servant of a rich man dies and his heirs /237/ seek wergeld from the master, the biis examining the case must find out as their first duty whether the man froze to death for lack of clothing, or died of hunger, or was killed stealing or while engaged in other pernicious pursuits. If it can be proven by the testimony of witnesses that the death was caused by one of the above-mentioned circumstances, then the owner must pay the wergeld. But if the death occurred for one of these reasons and a dispute arises because the side does not confess, then four persons from the side of the defendants must swear an oath, or if a woman has been killed, two persons.

According to the biis Sultan Kanaev and Khalmakammed, if a servant who is traveling in pursuit of thieves or enemies is killed, it is impossible to demand wergeld from his owner, even when the murderer belongs to a tribe like the Kalmuks, from whom it is unthinkable to demand wergeld.

681 For a murdered man, according to the communication of Baymet
682 Sagyndykov of the Chimkent uyezd, 1000 Shariat tillias are exacted of 10 tengas each, and if one counts each tillia at 4 rubles, as is customary, then it is 500 tillias or 10,000 tengas. If it is paid in livestock, then 100 camels must be paid. Absalyamov reports for the same uyezd that 100 horses and 100 rams are paid for a murdered man, or 600 tillias in money. Mullah Shanchi Chinybekov of the Auliye-Ata uyezd reports that for a murdered man from one to one hundred years of age, the wergeld consists of 200 mares, and for a murdered woman from one to one hundred years of age, the wergeld is 100 mares.

There are cases in which influential relatives succeed in exacting 3-5 wergelds for one murdered clan chief. For example, in the Auliye-Ata uyezd a total sum of 1,300 tillias and one girl was exacted as wergeld and expenses, from 500 tents, for the murder of an honorable personage of the white bone by the name of Yalangtash.

According to Sultan Daulet, the former wergeld for murder was of two types:

/238/ First Type

1) 1000 sheep = 1000 tillias = 2 girls.

2) 6 yakhsy, i.e., 2 slaves, 2 dromedary camels (nar) and 2 good horses. Wild animals such as a fox, wolf, antelope, etc. could be substituted for horses.

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3) Kalyngelim = a rug of 50 tillias or 100 rubles.

4) Kara nar - i. e., a dromedary camel in black.

5) Kara chulak, at, a wounded horse, i. e., the horse of the murdered man, in black.

6) Sary yipek yaulyk, a yellow silk kerchief, i. e., the kerchief of a widow, with which she covers herself as she weeps for her husband.

Second Type

1) 500 sheep or only 500 goats, or 500 kids a year old.

2) 6 yakhsy, i. e., 2 dromedary camels, 2 horses, 1 gun and 1 wild animal (karankus).

3) A cheap rug.

4) A small dromedary camel, for example, a taylak.

5) A horse 3-4 years old.

6) Yipek yaulyk, a kerchief.

Now the wergeld is the equivalent of 1,000 rams or 2, 000 rubles.

At the session of the biis of the Chimkent and Turkestan uyezds in September, 1877, the amount of the wergeld was determined as 2, 000 rubles for a man and 1,000 rubles for a woman.

In the Kokandian time the wergeld was larger, namely 1, 000 tillias for a man.

Other kinds of livestock of the same value can be paid in place of the animals mentioned.

Often the plaintiffs agree to a smaller sum. Baymet Sagyndykov writes that "if the litigants desire to make a peaceful settlement before the examination by the biis, at the admonition of the best /239/ people and biis, the case dispenses with an oath, and the plaintiff receives half the wergeld, in accordance with the customary law concerning peaceful settlements. "

A daughter or female relative of the murderer can be given instead of the wergeld.

If the murdered person is not buried but left to be devoured by birds and wild beasts, the tyuya bastagan toguz is added to the wergeld, called "wergeld for the bones" (syuyagening khuny), for the plaintiffs are not satisfied by the wergeld and demand to be given the corpse as well. If the murderer agrees to the payment of the wergeld, but wishes to hide the corpse (syuyagen kursetpese), and this is found out, then he is obligated to send the body on a "dromedary camel in black"

681 (kara nar), covered by a rug, and to pay a fine of from one to three
682 toguz, counting here also the camel with the rug. A bactrian camel can be given in place of the dromedary, and even only a horse. (Torgai).

Usually influential persons, aksakals, volost officials, etc. appear as trusted figures from the clan of the murdered person before the sessions of the biis, and they count out a considerable share of the wergeld obtained for themselves, under the name of travel and other expenses (Perovsk and Auliye-Ata uyezd).

Among the Kirgiz the wergeld is equal to 660 tillias. The receiver of the wergeld and his relatives to the third degree inclusive receive 300 tillias. He divides the remaining 300 tillias among the biis and other eminent persons, who are not related to him, because he fears their ill will "and they are used to receiving." The remaining 60 tillias go for the biilyk and various expenses. (Reported by bii Daniyar).

Everyone who has wounded or injured another is obliged, in addition to the exaction imposed by the court, to heal the injured person at his expense and to slaughter a ram to feed him. The doctor (taub) dresses the wound with the skin of this ram, and hits him on the wound with light blows, which constitutes a good sign (irim). For wounds and injuries which were unpremeditated or received in a dispute, only the healing and nursing must be paid. If the wounded person dies, /240/ a fine is exacted for the expenses of burial and memorial services, called "related wergeld" (karindas khun).

681 Wergeld is exacted in the following amounts for bodily
683 injuries:

Among the Kazakhs	Among the Kirgiz, reported by Kurpetai Dauletkulov.
For a light wound by a knife - from atton to at bastagan toguz.	10-15 rubles.
For a heavy wound, but not mortal - tyuya bastagan toguz. According to Umurbek, the biis are not supposed to examine the case until the safety of the patient's position is cleared up.	Compensation for the cost of the sacrificial offering (sadaka), made by the relatives for recovery.
For a wound resulting in death - full wergeld.	Full wergeld.

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Among the Kazakhs	Among the Kirgiz, reported by Kurpetai Dauletkulov.
If an agreement (bitim) was made for a certain sum because of a wound which seemed light, and it was entered into a document, and then the injured person died, the agreement is invalid and a suit is opened for full wergeld.	
For fighting with injury to a leg or arm, such that they cannot move about freely, no more than 100 rubles.	30-40 rubles. The Kirgiz call such an injury dzhansirek.
For a wound of the head (bas aryisa) - atton	/no entry/
For a wound of an arm or leg, with the loss of its use - 400 rubles.	Up to 300 rubles.
For the loss of both arms or both legs - full wergeld.	200 rubles.
/241/ For premeditated blinding of an eye - half the wergeld(1) and if it is the victim's only eye - full wergeld. According to Absalyamov, for blinding one or both eyes - 50 horses and 50 rams or 330 tillias.	(alty san): 2 eyes plus 2 arms plus 2 legs equals 600 tillias equals one wergeld. Each of these members 100 rubles.
For the injury of an eye, from 200 to 300 rubles (Perovsk uyezd).	/No entry/
For biting of the arm, 25 rubles (books of the Auliye-Ata uyezd). According to Absalyamov, for mutilation of an arm or leg, as well as for the loss of these members, 165 tillias.	

1. At the session of the biis of the Chimkent and Turkestan uyezds in September, 1877, wergeld for a man's eye was established at 1000 rubles, and for a woman's eye at 500 rubles.

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Among the Kazakhs	Among the Kirgiz, reported by Kurpetai Dauletkulov.
For a finger cut off - one-tenth of the wergeld (Perovsk uyezd). According to Sagyndykov, also one-tenth of the wergeld, or 200 rubles, while for one joint-one-third of this sum, i. e., 66 rubles, 66 1/2 kopeks. Only for the joint of the thumb it is one-tenth of the wergeld = 200 rubles. This is because the thumb has only two joints, and the other fingers have three.	
For making crooked and for injury: 1) to the thumb - tyuya bastagan toguz (Perovsk and Auliye-Ata uyezds);	1) 30 rubles.
2) to the index finger - 2 attons, and according to Kunakbai - at bastagan toguz; 3) to the other fingers - for each, an atton or attay (Perovsk and Auliye-Ata uyezds). According to Umurbek, it is the same for all fingers - tyuya bastagan toguz.	2) 5-10 rubles.
For knocking out a tooth, according to Sagyndykov, one-twentieth of the wergeld is paid, i. e., 100 rubles. /242/ If all the teeth are knocked out - the full wergeld. For each of the four upper and four lower front teeth (kurektis), at bastagan toguz is paid (Sultan Daulet Bushaev); Umurbek reports that an atton, or a horse, or only 8-9 rubles are paid; according to Kunakbai, an atton is paid; According to Khudaykul, 25 rubles apiece; in the Kurama uyezd, for the front tooth of an old man, 17 tillias are paid. In the bii's books of the Chimkent uyezd, 20 tillias are paid for one front tooth.	If the tooth /242/ is broken in half by the blow -20-25 rubles. If an old man's tooth is broken by a blow - 4-5 rubles are paid.

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Among the Kazakhs	Among the Kirgiz reported by Kurpetai Dauletkulov. 683
For eye teeth (akyl tis), according to Kunakbai, the same is paid as for front teeth.	The plaintiff must show a swelling of the gum (erin) to prove that the tooth was knocked out and did not fall out for another reason.
For each of the eye teeth and back teeth according to Sultan Daulet Bushaev an atton is paid or 50 rubles, according to Khudaykul - 10 tillias.	
For back teeth; according to Kunakbai, an atton is paid or nothing.	
For pulling out a piece of the beard - atton and an apology.	Nothing.
For cutting off the whole beard with a knife - at bastagan toguz, according to Sultan Daulet Bushaev;	Nothing.
According to Umurbek, it is impossible to define it exactly, but less than for the loss of the nose, because a beard grows back.	
For injury of the ear or the nose - from tyuya bastagan toguz to three toguz, according to Sultan Daulet Bushaev according to Umurbek, 100-400 rubles, but less for an ear at any rate.	The loss of an ear (chunak - earless) is 20-30 rubles.
/243/ For a man's loss of one ear or both, or of the nose, 50 tillias, according to Absalyamov.	/No entry/
For loss of the genital organ - full wergeld.	Not recorded.

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681 According to the report of Mullah Shanchi Chinybekov, the wergeld for the putting out of one eye in a man is determined as
683 50 mares, and for the putting out of both eyes at 100 mares. If an oath is imposed, it is required of one person in the case of one eye, and of two persons, in the case of both eyes. Otherwise the customary wergeld is: for one ear - 1 camel and 9 heads of livestock; for 2 ears - 2 camels and 18 heads of livestock; for a nose - 1 camel and 9 heads of livestock; for a tooth - 1 horse and 9 heads of livestock; for breaking or mutilating one arm or leg - 25 mares; the same of both arms and legs - 50 mares; for the mutilation of the genital organ - 100 mares, and if an oath is given, it falls upon two persons from the clan of the defendant. For the same mutilation of a woman, half this amount is paid.

According to Sagyndykov, if someone cuts off someone's tongue, or hits him with such cruel blows with a stick that the victim loses the ability to speak, or loses his reason, or else if he cuts off the nose or removes skin from a place where hair grows, namely, on the chin, the guilty person pays full wergeld.

681 Abortion , as well as miscarriage resulting from the blows of the husband, remains unpunished.

682 For miscarriage resulting from the will of an outside man, a fine is paid depending on the form, sex and size of the fetus, ranging from several camels to half the wergeld. If the fetus remained alive for some time, even wergeld is paid.

Half as much is paid for a fetus of female sex as for one of male sex.

If a betrothed girl who is pregnant from her legal bridegroom performs an abortion because of shame in front of her father and the people, the bridegroom, if he discovers it, can bring both the bride and the men and women who also took part in the abortion to strict accounting before the people's court, which takes the side of the groom (Kazalinsk uyezd).

/244/ If someone strikes a pregnant woman and stillbirth results from it, the guilty person pays 100 rubles as wergeld, and if the woman herself dies from the blows, which must be proved, the guilty person pays the full wergeld for a woman. But if a woman gives premature birth to a living child, as a result of blows of a stick, and the child dies only later, the full wergeld must be paid for the dead infant, if it is fully proven that the premature birth and the death of the newborn child were the result of the blows. Here the wergeld is paid depending on the sex of the infant. (Reported by Sagyndykov).

Among the Kirgiz, the defendant in such cases justifies himself with the words: "But did I pull the baby out of you?" However he pays for the miscarriage: 30-40 rubles for a fetus of 2 months, 40 rubles if it is 3-4 months old, 40-50 rubles if it is 5-6 months, 100 rubles if it is 7-8 or 9 months old. 681 682

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It is necessary to distinguish the corporal punishments administered by the elders in the village in private fashion, from the official ones, decreed by the biis, which are an innovation which has arisen to a slight degree in the steppe from the Kokand fortresses. Official corporal punishments are not practised now. In the Auliye-Ata uyezd the present biis do not remember an example, and only two instances can be found of it in the bii's books of the Perovsk uyezd. In one, there is a threat that in case the stealing is repeated it will be punished by the whip (durra). In the other, a fine is imposed on an inveterate thief, and in case he is insolvent - 25 strokes of the whip. In the opinion of Mikebai, this last judgment comprises an error: one of these punishments should have been determined categorically: either a fine, or blows with the whip. 681 627

Private corporal punishment does not excuse the culprit from paying a fine, but the official one does. According to Aleksandrov, /245/ a fine is substituted for corporal punishments only when the plaintiff expresses his consent.

In private corporal punishment, the number of blows of the whip (kamshi) or the stick (chibyk) are never counted, and the guilty person is beaten until he repents. But if he dies from the blows, wergeld is required for him. The biis do not accept complaints for private punishment for wrongs, for example, for adultery.

No one is exempt from corporal punishment if he is caught stealing, by position or by origin (white bone, elders, small children). They usually sympathize with the old persons and small children and spare them, but if they are bound up and beaten, they cannot complain to the bii because of blows which led to illnesse Women who are caught stealing are not bound or beaten. [685]

What we have called private corporal punishment can be called taking the law into one's own hands, when it is particularly cruel. This last concept does not exist among the Kazakhs or the Kirgiz. There are cases in which they cut off the nose or kill a person caught in adultery. (1) It is said that at one time, the murderer of the adulterer 681 627 684

681 627 684 1. Among the Alagirtsy and Farsalag of the Vladikavkaz okrug, if a wife is caught with a lover, her husband cuts off her nose. Among the Kurtat and Tagaur peoples, the husband kills the adulterer who is caught (Adaty Kavkazskikh Gortsev /Customary Laws of the Caucasian Mountaineers/, Pt. II, pp. 41-44).

and his own wife did not pay wergeld, while the murderer only of the former did pay wergeld. Taking the law into one's own hands exists even now. According to Lt. Colonel Pankratov, there was such a case during his service in the Chimkent uyezd. They placed a thief who was bound, on burning coals, and he was roasted there until the cords were burned through. A. E. Aleksandrov reports from the Kazalinsk uyezd that an outlaw is bound with a lasso to the tail of a horse or a camel.

According to bii Sultan Kanaev, before the coming of the Russians, they exacted a punishment 80 to 90 blows of the lash (durra) for adultery of a bachelor with the wife of another, and if he died under them, wergeld was not demanded. But if he was married, both he and the other's wife were killed, or else they threw the latter into a sack with /246/ a cover, or thrashed her in the sack with their feet. If she did not die after that, she was freed.

681 684 688 Mutilation by court order and execution were practised only by the Kokandians. They were subjected to being torn apart by horses, being hung from a gallows, (1) being stoned to death (sarsan, in place of the Persian sengsar)

1. The informant had not heard of hanging two men from both sides of a camel, as it is stated in Makovetskii, I, p. 69.

of the Persian sengsar) - this last for incest and renouncing their religion(2)

2. According to Staff Captain Grombchevskii, among the Kashgar Kirgiz the following types of tortures and lynchings exist: 1) they tie a cord around the head around the forehead, which they begin to tighten; 2) they bind the arms behind the back, and by twisting the rope draw the elbows and the shoulder bones together; 3) they throw the bound thief in front of the entrance to a sheep pen and let the sheep walk over him. The victim of this faints from pain.

and to being impaled on a stake (khada). (3)

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3. According to an eye-witness, the Kazakh Babaev, in the Kokand dominion, in Yany-Kurgan, the border point between Russia and the Kokand khanate, two Russian Kazakhs were impaled on a stake for some fault, in the following manner: they threw the criminal on the ground on his back. Then several men held him by the legs, while two thrust the sharpened end of a stake into him, 14 to 21 feet long and as thick as a man's arm. Then they lifted him into the air and fixed the stake in the ground. Some time later a Sart rode up and hit the two condemned men on the head with his Circassian saber. Both died during the night.

Among others, the following punishments existed earlier, according to the report of E. A. Aleksandrov: a) the guilty person was laid on the ground in the middle of the village with arms outstretched and face up, and his arms and legs were tied to stakes driven into the ground for that purpose, after which a herd of sheep was driven over him. The size of the herd depended on the degree of his fault. If the person subjected to such a punishment was crushed to death, his kinsmen received no wergeld. (4) b) Execution by cutting

4. According to the report of bii Sultan Kanaev, the driving [685] of sheep over a criminal (ustinen koy aydaydy) happens only [684] for theft from close relatives or adultery with close relatives, for example, persons of the same village.

off the head with a Circassian saber. Such a punishment took place with the consent of the sultan, and after the judgment of the offense by elders at a general council "maslyagat" (abbreviated: mastat).

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He who is guilty of lack of respect for the fundamentals of the structure of the life, the clan, the family, etc., is subjected to the punishment of shaming, /247/ called "visiting of the people" (el aylantyrmak). They tie the guilty person's hands behind his back, smear his face with soot, put a cord around his neck or a piece of old felt (kurum) and lead him on foot around the village. One man drags him from in front, and from behind a rider drives him and beats him (Perovsk, Kazalinsk and Auliye-Ata uyezds and among the Kirgiz).

681 In the Kazalinsk uyezd, the shaming in addition to this consists of the person who has suffered telling publicly of the crime of the guilty party.

Among the Kirgiz, the guilty person is led three times around the village, with an old felt on his neck, and he is beaten and forced to say: "I committed such and such an act (men falan ish kyldym), and this is the punishment for it (dzhazal)". After this they place him in a pit to rot (churib ulib kitedi). This punishment was practised under the Kokand serkers for: 1) robbery, discovered at the moment of commission, even though done for the first time; 2) adultery with another man's wife, under the same circumstances; 3) lack of decorum before superiors. For incest it was customary to stone people (tashbaran).

681 The punishment for an unrestrained passion for stealing was formerly to confiscate all the property (kanau, uruganau). The house of such a thief (in the Auliye-Ata uyezd) was subjected to attack and looting (uyin chaub alyb malyn aldy), or he was given up to the Kokandians, who hung him. Now under such circumstances they establish a sentence to exile him in Siberia or to banish him (1) from

1. The ousted person, excluded from his family and clan and therefore deprived of the support and defense of his clan, is called abrek among the Cherkes. A murderer, for whom his clan did not pay the "blood price" was made abrek primarily. Among the Mongols, exiles who departed from their kinsmen's clan and confederation were called ölöt or sabsars (Adaty Kavkazskikh Gortsev, pp. 359-61).

his milieu, saying: "We have banished him from our midst, we will be ruined because of his stealing. Let no one defend him in court (ichimizden chykarduk, kyuymeymiz urlygina, dauyn ich kim sura-masun). After this the thief becomes homeless, and is not reckoned in any volost. (2)

2. Two decrees of banishment from the community are given in Supplement No. 7. 1/

681 /248/ The withdrawal of the parental blessing from children exists. This takes place in this manner: The palms of the hands are pressed together and then pulled apart from each other three times. 1/ [Not translated -- A]

The withdrawal of trust (isenimsizdik) is not imposed by the court but is a natural consequence of a crime. Every blameworthy misdemeanor is accompanied to a greater or lesser degree by a forfeiture of trust. 681

The Kazakhs, like the Kirgiz, did not betray criminals in their midst, for specific fines exist for crimes. But the Kirgiz sold criminals to the Kazakhs and vice versa, and also the Sarts sold them to the Kazakhs and Kirgiz for a ransom, i. e., a fine, the sum of which was not determined by custom but was designated arbitrarily. If the kinsmen could not pay the sum demanded, because of poverty, or did not wish to because of repeated stealing, this gave the right to kill the criminal.

• • •

/249/ Entering a tent.

To ride past the doors of a tent (aldynan yuru) and not behind it, is considered impolite. If a newcomer stops only at the very doors, having already passed two panels / reshetki / of the tent (yeki kanat kerege), they say to him scornfully: What do you think you are, a chief? 596

It is necessary to stop and tie the horse behind the tent, and then to call the masters with the words: Syuyles! Adam barma? (I wish to begin a conversation; is the master here?). But this custom is now observed less strictly.

If a horse tied up in front of a tent kicks a child, a fine is paid of 1/4 the value of the horse, i. e., 5 rubles (because the leg is one of four extremities), while if the child is killed, a full wergeld is paid. But if the horse kicked it behind the tent, the fault is laid to the child which went back there. Even if the horse kicked it to death, only the value of the horse would be exacted, or if there were aggravating circumstances which were the fault of the horse's owner - 1/2 a wergeld. [672]

Entering a tent in the absence of the owners (otagasy) by one who is not a relative, is not regarded as nice. He is reminded of the fact that in case of loss the suspicion will fall on the person who has entered.

Unfastening the doors (of reeds - esik, of wooden folds - ergenek) in the absence of the owners is regarded as an act which

[220 cont.]
open disobedience. Nurali's declarations and his oft repeated requests to use reprisals on the borders by seizing bandits or their kinsmen were more sincere than was believed at the beginning, and later they were taken into consideration. They were also confirmed by the opinion of Tevkelev, who had had experience in relations with the Asiatics, as well as the replies of several sultans who had been requested, like the Khan, with no success over [221] several years, to give up their Russian prisoners. There were also the examples of Khiva, the land of Bukhara, and other powerful states who regarded reprisals (baranta) as indispensable in order to restrain a nomadic people.

Convinced by its experience and seeing that indulgent patience was far from lessening the temerity of the Kazaks, but indeed increased it, the Russian government finally decided to behave toward this people in the same manner as did all their other neighbors. Thus the border authorities were given orders (1)

1. Ukase of the Ministry of Foreign Affairs of November 27, 1749.

that in case of theft or the carrying off of persons they should require the Khan to release at once what was missing, and if he refused satisfaction or advised that reprisals be taken, they should take advantage of the first favorable opportunity to seize one of the kinsmen of the guilty person, or even any individual of his tribe (assuming that the guilty person himself did not show himself to the Russians again), and to hold this person under careful guard until the prisoner or the stolen objects should be returned.

This measure was not in harmony with the principles of equity customary among civilized peoples, but it was indispensable with the nomad brigands.

During this same period, in order to oblige Nurali to carry out the requests of the Russian government and to furnish him means of paying for the services his subjects rendered to Russia without injury to himself, he was assigned an annual stipend. At the same time a rule was set to send various gifts of fixed amounts in the name of the border government. But it was

[225 cont.]

[x648] In 1753 the angry Nurali directed that the first caravan [579 439] from Khiva which went to Russia or returned from there was to be pillaged. His orders were carried out. At once Kazaks of the Alimul descent line of the Karakitin tribe pillaged many Khivan and Turkomen merchants on the Sagiz, who were coming with goods under the escort of Kazaks of the same Alimul descent line but of the Chiklin tribe. Nepluev sent a civil official to the horde expressly to persuade the Khan to call the bandits to account, [662 681] deprive them of the goods, and return them to their owners. Nurali replied decisively that the pillage had taken place by his order because Sultan Batyr, not content with disobeying him, was also seeking to arouse the Middle Horde against him, and that Batyr in agreement with his son was requiring the Khiva caravans to travel only by way of his own auls. Moreover, in order to justify himself and with the aim of arousing Russia against Khiva, he wrote to Orenburg that Kaip and Barak (or Batyr) were preparing to attack the Russian border, and in that case he advised that the land of Khiva be conquered and promised to take it in a few days if he were sent the assistance of 10,000 Russian troops with artillery.

[579 577] His goal in proposing his services was easy to guess, and thus Nepluev and Tevkelev did not listen to his insinuations but repeated the demand for the return of the stolen merchandise of the robbed caravan and reproached him for conduct unbecoming to a khan. Their entreaties would have been useless if the interpreter charged with delivering them had not caused Nurali to hope, on instruction from Nepluev, that if he gave satisfaction to the [226] merchants he would gain the right to request the stipend from the government which had been assigned to him but had not been given all this time. This produced a greater effect than all the advice, and he busied himself at once with making his subjects give up the goods.

[661] Kaip, the khan of Khiva, acted quite differently. While the Russian government was causing the restitution to his subjects of what they had lost, this khan had a Russian caravan halted in Khiva, and in spite of the demands of the Orenburg authorities,

[244 cont.]
x 648 this distinction and paid no more attention to Russian complaints.
[721] His subjects again began their raids against the Volga Kalmuks and later insisted that they be allowed to spend the winter on the right bank of the Ural River. They had been refused this request several times, but the new refusal enraged them so that they wished to pass the border by force to spend the winter in Russia with their herds and studs. This insolence led the Empress Catherine to give
[681] Ubashi, a deputy of the Kalmuk khanate, a letter patent (2) on

2. This letter remained in Orenbúrg, where it is still preserved.

May 18, 1763 to punish the Kazaks of the Little Horde by force of arms as soon as he received word from the government of Orenburg that part of them had crossed the border. Orders were also given to authorize the Bashkirs and Yaik Cossacks to do the same. But no one gained from this, because the Kazaks remained in their steppes.

The wily Sultan Ablai, who for several years had succeeded in pleasing two powers with opposing interests, was called at this time to the aid of a third, which was less [245] necessary than the first two to his security in the horde but to whose fate he was
x 648 721 linked by both the laws of the Koran and his amour-propre.

The Chinese conquered what is called Little Bukhara almost at the same time as Dzungaria and wished to extend their conquests still further over other small Moslem states of Central Asia. The expectation of this invasion and the impossibility of repulsing it forced the khans of Tashkent and Kokand and their neighbors, who were as weak as they, to beg help against the Chinese first of all from Akhmet, sovereign of the Afghans, for with this title and as a Moslem, he should protect his coreligionists. The inhabitants of Kashgar and Yarkend and other cities already conquered by the Chinese likewise asked him to deliver them from the rule of the infidels. Aroused by so many demands, Akhmet sent a strong army against the Chinese, which halted between Tashkent and Kokand to enter into discussions with the Chinese.

[287 cont.]

[648] This khan could not distinguish himself in such a short time and under such harassing circumstances. Yet his mind and his inclinations to support the Russian government in its views could have made him truly of service to his people.

[643] When the news of his death was received in St. Petersburg, the Empress commanded that inquiries be made among the Kazaks concerning whom they wished to have as khan and especially to find out their attitudes toward Sultan Ishim, eldest son of Nurali.

[554] The latter had long been known for his attachment to Russia and was deserving, both for his personal qualities and the respect of the people, of inheriting the rank which had belonged to his father, his grandfather, and his most distant ancestors.

[83] Events served to lend greater force to his rights. The Little Horde was divided into two factions, the first under the name of Sultan Abulgazi, being obedient to Syrym, his ally and his rival, and the second ruled by Ishim. Russia could not count upon the first, for she had already had to suffer much mischief from it, and could still expect only hostile acts on its part. The second group included the sultans and elders who were most attached to Russia, and thus she could not act otherwise than to prefer it and to give privileges to its leader.

[643] [288] It must be noted, however, that even this group of the horde did not wish to choose Ishim as khan except under certain conditions. They asked that he become an independent sovereign (autocrat), that he not recognize the suzerainty of Russia, and that to this end he should withdraw into the interior of the steppes toward the Syr Darya. Ishim, who was accustomed to basing all his hopes on the protection of the Russian rulers, informed the Orenburg authorities of the demands of his people himself, adding that Syrym's followers were not only preventing him [644 681] from trying to find the bandits and pursue them, but were also exacting from him a kun /blood price/, or payment of 2,000 sheep, for having sent to Orenburg shortly before two Kazaks who were famous for their banditry. Ishim's frankness and his promise not [643] to go away from the Russian border led the government to use all its efforts to cause him to be elected khan. In mid-September of

[288 cont.]

X 648 [673] 1795, his partisans assembled by invitation near Orenburg, and on September 17 he was elected and proclaimed khan. They then swore on the Koran to live in peace with each other and not to disturb the Russian border.

X 648 681 Ishim's elevation did not diminish his attachment to the power which had given him a new title. After he became khan he did not cease to carry out the wishes of the Russian government as much as possible, against the wishes of his people, and this caused him to have many enemies. In order to avert the dangers which threatened him because of the severity with which he investigated the crimes as well the intrigues of Syrym and his followers, Empress Catherine decided to send him a detachment of troops to guard him and at the same time to help him carry out sentences against the offenders.

Y 648 685 It was also decided to establish a divan or council of the khan around him to support him in the administration of the Little Horde. The members of this divan, chosen by the people from among the most distinguished sultans and elders, were to carry out the wishes of the Khan, to help him, to represent him, and to [289] live with him in houses which were ordered to be built for them in the steppes in the territory of Taissugan.

X 648 [669] These plans could not be carried out because Syrym Batyr attacked Ishim in November, 1797 near the fortified post of Krasny Yar [Krasnoiar] and, after causing him to perish cruelly, pillaged all his belongings.

This crime of Syrym's exhausted the patience of the government, but how and where was he to be punished, much less brought into Russia? No doubt it was possible to send troops against him, but the difficulty of looking for him, the maintenance of the troops beyond the borders, the loss of men from hunger and thirst, even the destruction of Syrym's followers still did not assure the success of the pursuit they might undertake. Thus we should not be astonished that this famous brigand evaded punishment for all his attacks against Russia.

[726] However, all the Kazaks who followed his example and pillaged the borders at that time did not remain without punishment.

586 a family would see to it that the husband would not get rid of the woman who was valuable both for her fertility and for her capacities as a worker, and it took place as a rule only if the woman were incurably ill, or for like reasons.[154]

587 In the event that the husband was known to be impotent, the wife took a second husband from the family of the first--"in order not to have discredit cast upon her in the eyes of others." The new husband paid a kalym called the kalym of kinship, which was materially lower than that of the original kalym, and whose ratio was in inverse proportion to the degree of consanguinity between the two men concerned. The children of the divorced couple remained with the family of the first husband, but a son who was of age had the right of choosing among his kin; also, an eldest daughter could often follow her mother.[155] Among the wealthy, there was usually no question of divorce, since a husband could easily afford another wife.

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Criminal Law in its Relation to the Kinship System

491 602 613 A distinction between theft of cattle--rustling--in general and seizure from specified kinsmen--baranta--

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[154] Izrastsov, loc. cit.

[155] Dingelstedt, loc. cit.

[Great Horde]

681 was made in Kazakh legal practices. A number of distinc-
602 tions likewise existed in the punishments for taking a
613 life. No provision was made for repressive punishment, the only practice known was restitution if it was determined that a wrong had been committed. The penalty involved was the payment of a whole or a part of a kun or wergeld. The basic kun, mentioned above, was 200 baital (baital is a horse in good condition, or the equivalent). This might vary somewhat; for example, the kun in the vicinity of what is today Alma Ata was 200 horses, 100 sheep, and a camel, or roughly 225 baital (five sheep equalled one baital, a camel equalled five baital) toward the end of the 19th century. The taking of a woman's life, other than one's wife, required the payment of half a kun.[156]

If a man was killed in a fight or in a raid, only a partial kun was paid. Of significance to the kinship system in relation to the criminal proceedings is the fact that there was always voluntary aid by the kin of a murderer, even if the murderer were wealthy, and could afford the amount himself. On the other hand, if the murderer and his kin could not make up the sum among them, wider circles of kinsmen were called in, contributing in proportion to the degree of closeness of kinship,

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[156] Izrastsov, 12.

681 provided the man was of good standing in his community.[157] If the sum could not be made up by these means, it was made up by giving the daughter in marriage to a descendant of the victim, provided the daughter was not yet betrothed. It was stated, although how much meaning may be attributed to it is far from clear, that the making over of from two to four daughters could stand in lieu of a kun.[158]

The implication of such payments and the participation of the kin involved is that it is one lineage which is indemnifying another lineage for the loss of a member. The fact that a daughter could be given in partial quittance of a wergeld indicates that the offending lineage recognized that it had endangered the continuity of another and the daughter offered was a means of meeting that danger. The Turks of the Orkhon-Yenisei, it will be recalled, offered a daughter in payment for the putting out of an eye; it is possible that this practice had a similar meaning.

The recipient of the wergeld, i.e., the injured lineage, distributed it in a significant fashion: on receipt of the full amount, the kin of the victim (the sub-lineage as a rule) took one-half, which it further

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[157] Ibid., 13.

[158] Ibid., 14.

281 distributed among the elders of the clan or lineage, etc.
602 The remaining half was further divided, part being dis-
613 tributed among the more distant kin of the victim; how much was thus given out was up to the family of the victim, but it was impossible to give nothing. A slighted kinsman would appeal to the elders of the community, and was given a share of the kun proportional to the closeness of kinship. The remainder was divided among the sons of the victim, or if there were none, among the next of agnatic kin.[159]

177.68 The unit for payment[1] after the reorganisation of
681 Kazakh society under Russian impact was the aul; despite
621 the composition of the village at this time by segments of various lineages, it continued to act through a convenient fiction as though it were a unitary kin group. Support for payment of the kun was drawn from neighbors within the aul and from the kinsmen, both of whom were treated sociologically as a unit. If the guilty refused to pay, then the lineage or the clan, now settled in a volost', simply raided the guilty man's herds and made seizure of the requisite amount.[160]

The bii's[2] would often require that kin in the seventh
622 degree of agnatic kinship take the oath in support of the
602 accused. By this was meant, if the man were adjudged
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177.
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[159] Idem.

[160] Radloff, op. cit., I, 525.

[1] [i.e. of wergeld; cf. cat. 116, AHI Mongolia, p. 448ff. --Analyst]

[2] [on the bii, cf. cat. 116, AHI Mongolia, pp. 411-412 --Analyst]

681 We have dealt thus far with relationships of the
W2 law to the system of consanguinity; but there were also important relationships to the affinal system. One such relationship has already been mentioned, the fact that a husband and his kin were obliged to pay the full kun to the family of the wife if he killed her. Now the children of the murdered mother in this case got nothing,[162] and the reason for this is clear. They were reckoned in the paternal kin group, and thus suffered doubly: from the loss of a mother, and from the burden of the wergeld which they had to bear as part of the father's line.

On the other hand, if the wife was murdered by a stranger, the kun was divided equally between the wife's father's kin and the kin of the husband. If a betrothed girl was murdered, the father of the girl and his line received the entire kun, and the family of the affianced youth was presented with a choice, either to accept a sister of the victim, or to have the kalym returned and [762] seek elsewhere for a wife.[163] The ambiguous situation of the woman could not be expressed more sharply in Kazakh life than by the process of division of the kun[1/1] if her life was taken: she was regarded as belonging fully to no group, neither to the husband's nor to the father's.

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[162] Izrastsov, 14.

[163] Idem.

[1/1] [i.e. Wergeld; cf. cat. IIb, AHI Mongolia, p. 44846. --Analyst]

602 relationship, a man must now be aware of, respond to the economic and legal implications of, a relationship through the mother's sister. In the light of this, we must re-examine the lines of consanguinity, and we find that the agnatic line no longer satisfies all the relationships involved, or even the major proportion of them. Descent is significant in the light of the data here presented through the grandfather in general, and not through the father's father alone. A man can call on me for help if he shares a common grandfather with me, and conversely, I can call on him. This is a cognatic relationship, and not at all an agnatic one, which in the present context is of considerable theoretical interest.

67a 681 593 A final relationship between the kinship system and the law on the steppe which is to be discussed is the legal personality of the family. The family was a person before the criminal law of the Great Horde, as it was in other parts of the steppe. Thus, if a father killed his son, no legal proceeding could be undertaken against him; nor could the law intervene if the son killed his father. The family unity could not be invaded, that is, by outside forces. Again, if the father was alive, and a brother killed a brother, the legal process could not intervene; and even if the father were dead and the sons had moved apart, only a small sum was paid to the family of the victim, more a token payment than a true wergeld.[165]

[165] Ibid., 15-16.

672 Moreover, the family acted as a personality in paying
681 or receiving the wergeld: it was liable to penalty or
573 indemnity as a unit. To this conception we add in corroboration the family as a personality in the marriage practices of kalym, levirate and the marriage agreement itself.

The Middle Horde

101 The Middle Horde, Kazakh orta yüz, literally Middle
161 Hundred, nomadized on the steppe north of Lake Balkhash as far as the upper course of the Irtysh River in southern Siberia. From the viewpoint of European Russia, it was less distantly removed than the Great Horde. In territorial expanse the Middle Horde was smaller than the Great Horde, but larger than the combined Little and Inner Hordes. Numerically it was the largest of all the hordes considered separately in the 19th century; it was estimated in the 1830's at 165,000 families, approximately, and at about the same number at the end of the century. Thus from Levshin's day in the 1830's to Radlov's in the 1890's, it showed no absolute change at all, whether of increase or decrease, while compared with the other hordes it had suffered a relative decrease.[166]

Unlike the Great Horde, the Middle Horde had no

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[166] Levchine, 300; von Hellwald, 20; von Lebedour, II, 480; Schuyler, I, 34; Lansdell, I, 303-304.

[Inner Horde]

614 this function was taken over by the lineage. Here we can say that the clan could continue to be the unit of exogamy in those cases where it was co-terminous with the lineage, and was so even in the 20th century, as indeed it had been at times in the past. But the lineage, or sub-lineage, was the normal unit of exogamy and had been before Kharuzin's day, and continued to be afterward.

614 c[681] 608 The clan was no longer responsible[1] for the crimes of a clan-member; that it had been in the past is shown by the wergeld relationship, regarding the collection of the wergeld for transmission and its distribution on receipt. It was possible to change clan affiliation; indeed this exemplifies beautifully the principle of the fictive descent, whereby on joining another clan one was given the genealogy of the new clan, the conditio sine qua non for membership in the new clan. One of the most frequent reasons for leaving one's clan and joining a new one according to Kharuzin was to escape punishment; but this reason is self-defeating, since the clan of asylum might not want responsibility for the fugitive and could demand the return of the new arrival to his old clan; in fact the notion contradicts Kharuzin's point that the clan had no responsibility for its members' activities.[238]

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[238] Ibid., 44-45.

[1] [i.e. in the 19th century. Cf. cat. 116, AHI Mongolia, pp. 496-498 -- Analyst]

8:Kostenko -33-G-4,5(1868-80)1880 RL1 Turkestan
KazaK RQ2

681 Among alomst all ancient peoples and among the Kazakhs there existed the law of retribution, that is, death for murder or rape - and mutilation for mutilation. But time and the prevalance of a new order have changed this custom. However, down to the Russian domination, ransom was permitted for murder. For the death of a man a thousand horses were usually paid, and half that for the murder of a woman. This ransom is called 'kun', and when the crime can be hidden from the Russian authorities this is done even today.

692 In general all legal judgments, civil and criminal, just as all public affairs, according to custom can never depend on the will of one person, but are always made with the agreement of several elders, beys or honored persons in general. These persons had and still have today the right to receive a tenth part of the property of the guilty person, or, if it is a civil matter, the same share from the payment
696 of retribution which they decide. The 'baranta'
628 is a completely unique crime among the Kazakhs. The beginning of these feuds was almost always legal, that is, they usually began from the unwillingness /347/ of one of the contesting parties to abide by the decision of the elders. In such a case the injured party had the legal right to obtain satisfaction by force, that is, to make raids, steal cattle and capture the people. It is self-evident that those who were plundered did the same in return, believing that more had been taken from them than should have been according to the legal judgment. Thus the stealing, robbery and murder committed by both sides confused the question more and more, and quarrels and feuds lasted in this way for decades, eventually even dividing clans.